

## **REMARKS**

With this Response, claim 16 is amended for purposes of consistency of antecedence. No claims are added or canceled. Therefore, claims 1-91 are pending.

## **CLAIM REJECTIONS - 35 U.S.C. § 102**

Claims 1-6, 16, 22, 24-27, 34, 36, 40-46, 57-61, 63-69, and 80-85 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,687,171 issued to Shin et al. (*Shin*). Applicants respectfully submit that these claims are not anticipated by the reference for at least the following reasons.

According to MPEP § 2131, "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." The Office Action fails to address every element of the claims, and therefore fails to allege that at least one element of the claims is described in the cited reference. Furthermore, the cited reference fails to disclose at least one element of the claimed invention.

Claim 1 recites the following:

**Receiving a random access request for a traffic channel of a plurality of traffic channels on a first random traffic channel of the plurality of traffic channels**, the traffic channel to be selectively allocatable by the base station for communication with a user terminal;

Determining whether a traffic channel of the plurality of traffic channels is available to allocate to the requestor; and

Communicating to the requestor whether a traffic channel of the plurality of traffic channels is available.

Claims 34, 36, and 64 recite similar limitations directed to receiving a random request for a traffic channel, on a traffic channel.

Claim 41 as amended herein recites:

**Receiving a request for an access channel of a plurality of channels on a first access channel of the plurality of channels;**

Determining whether an access channel of the plurality of channels is available; and

Communicating to the requestor whether an access channel of the plurality of channels is available.

Claims 16, 60, and 63 recite similar limitations directed to receiving a request for an access channel on an unallocated access channel.

Thus, the claims recite receiving requests for a channel, **not** on a control channel or dedicated random access channel, as is traditionally performed; rather, the request for access is received randomly on a traffic channel, as recited in claims 1, 34, 36, and 64, or an unallocated channel, as recited in claims 16, 41, 60, and 63.

As a first matter, the Office Action fails to address the elements of "the random access request" of claim 1, or "the request for an access channel" of claim 41, or similar limitations of the other independent claims. The Office Action fails to allege that these limitations are recited in the cited reference. Therefore, Applicants submit that the Office Action has failed to establish a prima facie case of anticipation under MPEP § 2131. Applicants submit that because a prima facie case of anticipation has not been established, Applicants have no duty to respond. However, in an effort to expedite the prosecution of this case, Applicants have addressed the cited reference.

*Shin* discusses measuring signal strength to determine whether to allocate a channel, and may allocate additional channels if the signal strength lies within a system threshold. See col. 3, line 42 to col. 4, line 14 and Figure 2. Thus, the reference appears to suggest that potentially multiple channels can be allocated. However, discussion that multiple channels can be allocated **does not** disclose or suggest that a channel/access request is received **on a traffic channel** of a plurality of channels, as recited in claims 1, 16, 34, 36, and 64, **or on an access channel** of a plurality of channels, as recited in claims 41, 60, and 63. Applicants submit that the fact that the

reference is silent on the manner in which channel/access requests are received is evidence of the fact that the reference uses a traditional, dedicated channel approach. Therefore, the reference fails to disclose or suggest at least one element of claims 1, 16, 34, 36, 41, 60, 63, and 64.

Because *Shin* fails to disclose or suggest at least one element of the claims, *Shin* fails to provide support for an anticipation rejection under MPEP § 2131. Therefore, Applicants respectfully submit that these claims are not anticipated by the cited reference.

The remaining claims depend, either directly or indirectly, from the independent claims addressed above. Because dependent claims necessarily include the limitations of the claims from which they depend, Applicants respectfully submit that these claims are not anticipated by the cited reference for at least the reasons set forth above with respect to the independent claims.

#### **CLAIM REJECTIONS - 35 U.S.C. § 103**

The remaining claims in this application were rejected under a great number of secondary references, each relying on the improper rejection of the claims above under *Shin*. Because the rejection above is shown to be improper, Applicants submit that the remaining rejections are likewise not supportable under the cited references. Specifically, claims 35, 37, and 62 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Shin* in view of the Official Notice taken that evaluation factors including subscriber status, subscriber equipment, type of service requested, geographic location of the request, geographic location of the responding equipment, connection quality, usage history of the subscriber, and emergency status of the request are well known in the art; claims 7-8, 11, 18, 47-48, 51, 70-71, and 74 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Shin* in view of U.S. Patent Application Publication No. 2002/0072348 A1 of Wheeler et al. (*Wheeler*); claims 9-10, 39, 49-50, 56, 72-73, and 79 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Shin* in view of U.S. Patent

Application Publication No. 2002/0087740 A1 of Castanho et al. (*Castanho*); claims 12-14, 52-53, and 75-76 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Shin* in view of U.S. Patent Application Publication No. 2002/0163393 A1 of Mittal et al. (*Mittal*); claims 15, 55, and 78 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Shin* in view of U.S. Patent No. 5,680,398 issued to Robinson (*Robinson*); claim 17 was rejected under 35 U.S.C. § 103(a) as being unpatentable over *Shin* in view of U.S. Patent No. 6,006,084 issued to Miller et al. (*Miller*); claim 20 was rejected under 35 U.S.C. § 103(a) as being unpatentable over *Shin* in view of U.S. Patent Application Publication No. 2002/0065081 of Barany et al. (*Barany*); Claims 28-31 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Shin* in view of U.S. Patent No. 5,345,596 issued to Buchenhorner et al. (*Buchenhorner*); claims 32-33 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Shin*, *Barany*, and *Robinson*; claim 38 was rejected under 35 U.S.C. § 103(a) as being unpatentable over *Shin* and *Miller*; and, claims 86-91 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Shin* and *Miller*. Applicants respectfully submit that each of the cited references suffers the same defects as *Shin*, and thus fail to cure the deficiencies of *Shin*, as discussed in Applicants previous Response of August 10, 2004. All of the cited references, whether alone, or in combination, fail to disclose or suggest at least the limitations discussed above with respect to the independent claims, and thus fail to render obvious the invention as recited in these claims, which depend, either directly or indirectly from those claims. See MPEP § 2143.03.

## **CONCLUSION**

For at least the foregoing reasons, Applicants submit that the rejections have been overcome, placing all claims in condition for allowance. Such action is earnestly solicited. The

Examiner is respectfully requested to contact the undersigned by telephone if such contact would further the examination of the present application.

Please charge any shortages and credit any overcharges to our Deposit Account number 02-2666.

Respectfully submitted,  
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